

**JOINT STATEMENT
OF
CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS,
AT&T CONNECTICUT, T-MOBILE AND
SPRINT NEXTEL**

**Regarding Raised Senate Bill No. 461
An Act Concerning Siting Council Proceedings and Decisions**

Proposal:

Raised Senate Bill No. 461 would require the Connecticut Siting Council ("Council") to consider "the latest technological options designed to minimize aesthetic and environmental impacts" when issuing a Certificate of Environmental Compatibility and Public Need ("Certificate") for a wireless telecommunications tower.

Comments:

Cellco Partnership d/b/a Verizon Wireless, AT&T Connecticut, T-Mobile and Sprint Nextel (the "Wireless Carriers") oppose this bill because its intent is unclear and, as a consequence, it may be pre-empted by federal law.

When the Wireless Carriers submit applications to the Council for personal wireless service facilities, various aesthetic design alternatives are often discussed and considered, including variations to a proposed tower structure (e.g., a "monopine" tree tower or stealth 'flag-pole') or to the proposed antenna mounting method (e.g., low profile platforms or T-Arms), to assess the potential aesthetic impacts of a proposed facility in a given location. In addition, as part of its review of an application for a Certificate, the Council also considers these design alternatives (whether or not they are proposed by the Wireless Carriers) in carrying out its statutory responsibility to consider the nature of the probable environmental impacts of a proposed facility. Since the Council's review is *limited* to determining if there is a way to balance the potential visual impacts *without* changing the essential nature of a proposed facility (i.e., a telecommunications tower), the Wireless Carriers have no objection to such a review or to a statutory provision intended to affirmatively require the Council to consider these types of aesthetic design options.

However, as currently written, the proposed legislation could be read to impermissibly broaden the Council's limited review, to include the consideration of entirely different wireless technologies, such as outdoor distributed antenna systems ("DAS"), micro-cells and/or repeaters, *as an alternative to a telecommunications tower*. To the extent the proposed legislation requires such a consideration, it is pre-empted by the Supremacy Clause of the United States Constitution because it would intrude into a field occupied exclusively by the federal government.

On February 1, 1996, the United States Congress enacted the Telecommunications Act of 1996 ("Telecommunications Act"), which made substantial changes to federal regulation of

telecommunications in order to facilitate the rapid deployment of advanced wireless telecommunications services nationwide. In recognition of the inherently interstate and mobile nature of wireless service, Congress sought to provide for a uniform, national scheme of regulation and to pre-empt piecemeal regulation by state and local governments.

In particular, as part of the Telecommunications Act, Congress occupied the field of regulation concerning the technical and operational aspects of personal wireless services. Specifically, Congress has vested the Federal Communication Commission ("FCC") with *exclusive* authority to establish technical standards for personal wireless services. Accordingly, *only* the FCC may establish regulatory schemes aimed at the review and/or deployment of wireless service technologies. Thus, state legislation that seeks to legislate or require a state agency to regulate in this field usurps the FCC's regulatory authority over the technical parameters for the provision of personal wireless services and is, therefore, pre-empted.

Conclusion:

Since, as currently written, the proposed legislation may be pre-empted by federal law, the Wireless Carriers oppose SB 461 and urge the Committee to revise it to conform with federal law or, otherwise, to reject it.